

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

IN RE:

Michael J Orta,
Autumn A Anderson,

DEBTORS.

CHAPTER 13
CASE NO. 13-46804-MBM
JUDGE MARCI B. MCIVOR

**TRUSTEE'S OBJECTION TO CONFIRMATION OF THE
DEBTORS' FIRST MODIFIED, PRE-CONFIRMATION CHAPTER 13 PLAN**

NOW COMES the Chapter 13 Standing Trustee in this matter, David Wm. Ruskin, and objects to confirmation of the debtors' First Modified, Pre-Confirmation Chapter 13 Plan, and in support thereof states as follows:

1. Based on the Plan as filed, the debtors fail to provide for the submission of sufficient future earnings or future income for the execution of the Plan in contravention of 11 U.S.C. Section 1322(a)(1).

2. Although debtors' Amended Schedule E and Amended Plan adds debtor's Domestic Support Obligation creditor, debtors have not filed Notice of Compliance with Local Bankruptcy Rule 1009-1(d) nor have debtors submitted to this Court an amended Matrix to add the Domestic Support Obligation creditor. Accordingly, this creditor may not have received proper notice as required by Federal Rule of Bankruptcy Procedure 2002 and Federal Rule of Bankruptcy Procedure 3015.

3. The Plan fails to increase its funding upon the termination of the obligation to pay child support pursuant to 11 U.S.C. Section 1325(b)(1)(B) and 11 U.S.C. Section 1325(a)(3).

4. Based upon the debtor-wife's pay stub dated March 22, 2013, provided prior to the First Meeting of Creditors, the debtor's year-to-date gross income was in the amount of \$6,070.65, which constitutes monthly net income in the average amount of \$1,519.13. As the debtors' Schedule I exceeds the debtor's monthly net income by approximately \$164.00, the debtors' Plan fails to comply with 11 U.S.C. Section 1325(b)(1)(B) and 11 U.S.C. Section 1325(a)(3).

5. Based upon debtors' testimony at the First Meeting of Creditors, debtors have a business named "Orbiting Solutions LLC". Debtors' Amended Schedule B discloses debtors' interest in this business but values that interest at zero dollars. Based upon the debtors' testimony at the First Meeting of Creditors, debtors are operating that business and are receiving income from that business. Debtors have failed to produce any documentation which would substantiate a value of zero dollars for debtors' interest in that business. Accordingly, debtors' Plan may fail to comply with 11 U.S.C. Section 1325(a)(4).

6. Debtors' Chapter 13 Plan strikes Section IV.D. of debtors' Chapter 13 Plan in its entirety. This alteration may result in counsel receiving compensation in an amount which is unreasonable and excessive under the circumstances of this case in violation of 11 U.S.C. Section 327 and 11 U.S.C. Section 330 resulting in debtors' Plan failing to comply with 11 U.S.C. Section 1325(a)(1).

7. Based upon the debtor-husband's pay stubs dated June 9, 2013, provided prior to the First Meeting of Creditors, the debtor-husband's gross income was in the average amount of \$2,466.60, which constitutes monthly net income in the average amount of \$2,270.99. As the debtors' Schedule I discloses no income for debtor-husband, debtors' Schedule I understates debtor-husband's actual monthly net income by approximately \$2,270.00 per month. Therefore, debtors' Plan fails to comply with 11 U.S.C. Section 1325(b).

WHEREFORE, the Chapter 13 Standing Trustee requests that this Honorable Court deny confirmation of the debtors' Chapter 13 Plan.

OFFICE OF THE CHAPTER 13 STANDING TRUSTEE-DETROIT
David Wm. Ruskin, Chapter 13 Standing Trustee

Dated: July 30, 2013

/s/ Thomas D. DeCarlo
DAVID WM. RUSKIN (P26803)
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**CERTIFICATE OF SERVICE OF TRUSTEE'S OBJECTION TO
CONFIRMATION OF THE DEBTORS' FIRST MODIFIED,
PRE-CONFIRMATION CHAPTER 13 PLAN**

I hereby certify that on July 30, 2013, I electronically filed the Trustee's Objection to Confirmation of the debtors' First Modified, Pre-Confirmation Chapter 13 Plan with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

The following parties were served electronically:

SWEENEY LAW OFFICES PLLC
30555 SOUTHFIELD RD
STE 400
SOUTHFIELD, MI 48073-0000

The following parties were served via First Class Mail at the addresses below by depositing same in a United States Postal Box with the lawful amount of postage affixed thereto:

Michael J Orta
Autumn A Anderson
527 Emerald Glen Drive
Manchester, MI 48158-0000

/s/ W. Noelle Balloid

W. Noelle Balloid
For the Office of the Chapter 13 Standing Trustee-Detroit
1100 Travelers Tower
26555 Evergreen Road
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